Proposed Consultation Document

About the

Assessment Complaints and Appeals Regulation (AR 238/2000)

Alberta
MUNICIPAL AFFAIRS

2005
Alberta Centennial

August 2005

Dear Stakeholder:

The Assessment Complaints and Appeals Regulation AR 238/2000 was enacted November 22, 2000 and represented a consolidation of two previous regulations.

This regulation will expire on January 31, 2006 and requires review in accordance with the requirements of the Regulatory Review Secretariat. This discussion document contains proposed amendments to the regulation that improve efficiencies to the process of making an assessment complaint or appeal through positive, clear and direct instructions. These proposals are the result of a series of consultations and discussions with various stakeholders from May through early July 2005.

You are invited to review these proposals and provide your comments, opinions or alternate suggestions. Responses will be considered prior to the Minister's approval of a proposed regulation.

Please respond with your comments by October 28, 2005, to:

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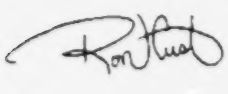
Municipal Services Branch
Alberta Municipal Affairs
17th Floor, Commerce Place
10155 – 102 Street
Edmonton, Alberta T5J 4L4
Fax (780) 420-1016

Thank you for your participation in this important consultation process.

Yours truly,



Ron Cust
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Legislative Projects Unit
Alberta Municipal Affairs

Proposed Regulation on 106-02134/
ASSESSMENT COMPLAINTS AND APPEALS REGULATION
Stakeholder Consultation

The Municipal Government Act (MGA) provides the Minister of Municipal Affairs the authority to make the Assessment Complaints and Appeals Regulation (Alberta Regulation 238/2000). The main purpose of the regulation is to provide instructions that result an efficient and fair assessment complaints and appeals process.

The existing regulation will expire on January 31, 2006 and requires review in accordance with the requirements of the Regulatory Review Secretariat. Following a series of meetings and workshops with representatives from users of this regulation, a number of areas have been identified where improvements to the Regulation should be considered.

The discussion paper and questionnaire provided in the two links below are intended to present these ideas in the form of proposals for your return comment and response.

- Assessment Complaints and Appeals Regulation – Consultation Document (pdf)
  This document presents 24 proposals for your consideration, followed by two appendices that include a copy of the existing regulation and a copy of the set of questions posed to stakeholders in a series of meeting s conducted throughout June and July 2005.

- Stakeholder Questionnaire (MS Word)
  Provide us with your opinions and comments. The Ministry will consider all the feedback from stakeholders and then make recommendations on the final content of the regulation.

Please respond with your comments by October 24, 2005, to:
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Introduction

The purpose of this discussion paper is to bring forward ideas and proposals that the department has received suggesting changes to the property assessment complaints and appeals system for your consideration and response.

The primary purpose for the complaint and appeal process is to enable individual property owners and ratepayers to be assured that their property has been assessed for taxes correctly and fairly.

The *Municipal Government Act* (MGA) gives the Minister of Municipal Affairs the authority to approve the Assessment Complaints and Appeals Regulation (Alberta Regulation 238/2000). The main purpose of the regulation is to require that parties disclose information regarding a complaint and provide evidence about an assessment to one another prior to a hearing before an assessment review board. The regulation also limits the Municipal Government Board's ability to hear evidence that was not presented by the parties at the hearing before an assessment review board. As well, it permits an assessment review board to direct that the Municipal Government Board hear a complaint (appeal) in the first instance if all of the parties consent.

The regulation also provides the option for single member panels to hear complaints at the assessment review board and appeals at the Municipal Government Board regarding some types of procedural matters and low value assessment appeals.

The existing regulation will expire on January 31, 2006 and requires review in accordance with the requirements of the Regulatory Review Secretariat. For the past four and half years, municipalities, ratepayers, tax agents, administrators, assessors, assessment review boards and the Municipal Government Board have managed the assessment complaint and appeal process using this regulation. However, after a series of meetings and workshops with representatives from these groups, a number of areas have been identified where improvements to the regulation should be considered.

This consultation document discusses these areas, provides solution proposals framed as questions and asks for your comments.

1. Definitions

Section 1 of the regulation provides specific definitions for words and phrases that are necessary for clear and consistent implementation of this regulation.

A concern has been raised about the inconsistent interpretation and application of the word "days" for implementing the timeline instructions found in sections 2, 3, 4, 6 and 9 of the regulation.

Confusion is occurring with the interpretation of the word "days" as including Saturdays, Sundays and statutory holidays, and the practical application of this.

As an example, tax agents on behalf of their ratepayers have pointed out that difficulty is created by the 3 day instruction in subsection 4(3) when the *"3 days before a hearing date"* falls on the Friday before a weekend with a statutory holiday on the Monday and the complaint hearing is scheduled for the Tuesday.

Similarly, subsection 4(4) indicates that:

> *"if a clerk of the assessment review board sends a notice of hearing on a date that is less than 45 days before the hearing date the complainant and the respondent are not required to comply with subsection (1) to (3)..."*

The 45 day requirement is not being interpreted in a consistent manner across the province, particularly when a statutory holiday happens.

It is proposed the following definition for "working days" be added to the regulation and substituted for the word "days" in the regulation to resolve these issues.

For the purposes of this regulation, "working days" means those consecutive days from Monday through to Friday inclusive during the calendar year which are not identified as a statutory holidays and not including any Saturdays or Sundays.

2. Role of the Assessment Review Board Clerk

The role of the assessment review board clerk is established in sections 455, 461, 462, 469 and 483 of the *Municipal Government Act* and sections 3, and 6 of the regulation. This role includes receipt of complaints, complaint fees, scheduling of hearings before assessment review boards, certifying, sending, and recording decisions, tracking evidence deadlines, provision of complaint process information and refund of complaint fees when the complaint is successful.

Questions have been raised about the authority of the clerk in subsection 3(4) and 3(5) of the regulation to make a decision to refuse to receive and file a complaint about a non-residential property assessment for non-compliance with the fee and document requirements in subsections 3(1) and 3(2)(a) through to (e) inclusive.

It is proposed that the role of the clerk be clarified in the regulation to be strictly administrative in nature. The proposed clarification would continue the clerk's existing role of receiving, scheduling, recording and sending decision notices about complaints. It would also include the requirement to "flag" or identify those situations that require a procedural hearing by the assessment review board for a decision concerning the validity of a complaint to advance to a hearing.

3. Issue Statement Requirement for All Property and Business Assessment Complaints

Sections 2 and 3 of the regulation set out the requirement to provide an "issue statement" for a complaint and an appeal about certain property and business assessment, and tax types.

The issue statement is intended to contain the reasons for the complaint or appeal, the facts supporting the reasons and the change to the assessment roll that the complainant seeks. The issue statement is central to the complaint and appeal process as a means for resolving assessment complaints, or providing for board decisions that recognize the principle of fairness through implementation of natural justice.

Currently, the regulation sets out that issue statements are required for complaints that concern assessments classed as non-residential property and some businesses with assessments above a specific assessment value level threshold.

It is proposed that the regulation be amended to include the requirement to provide an "issue statement" for all complaints and appeals concerning the property assessment classes described in section 297 of the act and businesses subject to a business tax bylaw.

4. Submission of an Issue Statement Linked to Last Day for Filing a Complaint

Sections 2 and 3 of the regulation stipulate the last date or deadline for providing an issue statement. Depending on the property type of the complaint, this deadline can be "7 days, 21 days or within a reasonable time before the hearing of the complaint."

It is proposed that the date for providing an issue statement be aligned with the "last date for complaint shown on the assessment and/or tax notice."

5. Issue Statement Submission Date for Property and Business Assessment Complaints

It is also proposed that an issue statement be submitted to the clerk of the assessment review board "x" number of days after the last date for complaint.

6. Municipal Bylaw Option to Determine Value Level Applicability of Issue Statement

Section 2, subsection 3(2), and section 4 of the existing regulation provide instructions about:

- the applicability of requirements for filing issue statements and other documents for non-residential property assessment complaints that fall under or over $250,000 in assessment value
- the content of issue statements
- the requirement for statements attesting that an exchange or discussion has or has not taken place between the complainant and respondent about the complaint
- an estimate of the time required by the complainant to present evidence before the assessment review board
- the timelines for the exchange and disclosure of evidence between appellants and respondents following submission of issue statements

Additionally, subsection 2(1)(b)(ii) also establishes that complaints against business assessment accounts with an assessed value less than $50,000 are not required to file an issue statement or abide by the instructions of sections 3 and 4, where the only complaint issue is the assessment value.

Generally stakeholders to this regulation have indicated that the threshold assessed value levels of $250,000 and $50,000 to determine the application of the instructions about issue statements and evidence provisions are no longer relevant to current market value assessments in Alberta. They have also indicated that the requirement for statements about discussion exchanges and hearing time estimates in subsections 3(2)(c),(d) and (e) are not working for the lack of enforceability.

It is proposed that, not withstanding the previous proposal to require an issue statement for all property and business assessment complaints, municipalities should be allowed through the use of a bylaw to exempt the requirement of "issue statements" for:

- **complaints about property assessed and classed in the majority as non-residential (class 2) and machinery and equipment (class 4) and that have an assessed value of $500,000 or less, and;**

- **complaints about business assessments for businesses subject to a business tax bylaw that have an assessed value of $100,000 or less.**

7. No Requirement for Issue Statement for Complaints about Business Assessment

Subsection 2(1)(b)(ii) of the regulation removes the requirement for the provision of issue statements and exchange of evidence for complaints about business assessment where the assessed value of the business is $50,000 or less.

It is proposed that subsection 2(1)(b)(ii) be deleted from the regulation.

8. Date for Submission of Issue Statements Under Municipal Bylaw Option

These issue statements would be filed with the clerk of the assessment review board and the assessor of the municipality.

It is proposed that for those municipalities which choose to pass an issue statement bylaw, that the regulation require that the date for submitting the issue statements for complaints about non-residential and machinery and equipment property be within a specified number of "working days" (i.e. 20, 15, or 5?) either:

(a) before the hearing date of the complaint, or,

(b) after the last day for complaint shown on the assessment and/or tax notice.

9. Documents to be Filed by Complainant

Subsections 3(2)(c) and (d) of the regulation require the issue statement relating to a complaint to contain a statement attesting that an exchange or discussion has or has not taken place between the complainant and respondent about the complaint. Section 3(2)(e) of the regulation also requires the issue statement to contain an estimate of the time to present evidence before the assessment review board by the complainant.

These three subsections are not occurring in practice and are unenforceable.

It is proposed that existing subsections 3(2)(c),(d) and (e) be deleted from the regulation.

10. Dates for Providing Evidence Disclosure

It is proposed that the timelines concerning the disclosure of evidence in section 4 be adjusted in the following manner:

- **to 20 "working days" in subsection 4(1),**
- **to 10 "working days" in subsection 4(2) and;**
- **to 5 "working days" in subsection 4(3).**

11. Municipal Bylaw Option to Adjust Threshold Value Levels

It is proposed that the regulation provide the municipality with the ability to adjust the assessed value level threshold. This would have the effect of adjusting the requirement of issue statements and the rules of exchange and disclosure of evidence.

12. Penalty for Failure to Disclose Evidence

Section 5 of the existing regulation instructs the assessment review board not to hear any evidence that has not been disclosed in accordance with section 4.

Some stakeholders have indicated that this is an unenforceable section, and some claim that it interferes with natural justice.

It is proposed that the regulation be amended to include a penalty against the party that fails to implement the disclosure instructions of section 4.

13. Delete Record of Assessment Review Board Hearing

Section 6 of the regulation provides specific instructions for the assessment review board to make and keep a record of each complaint hearing and also instructs the assessment review board to provide this record to the Municipal Government Board within 14 days of being notified that an appeal has been filed with the Municipal Government Board.

Significant human and environmental resources are being allocated to making, keeping, and forwarding a record of assessment review board hearings to the Municipal Government Board. Typically the Municipal Government Board is not making any use of these records in regards to appeal hearings before it. This may be a result of section 496 of the act, which provides the Municipal Government Board with the broad power to determine the admissibility, relevance, and weight of any evidence.

It is proposed that section 6 be deleted from the regulation as it is of little benefit and has apparent low utility to ratepayers, municipalities, assessment review boards, and the Municipal Government Board.

14. Municipal Government Board to Review Record Prior to Hearing

Alternatively, amend section 6 to allow that the record of each assessment review board hearing be kept by the clerk, but that a change be made to require the Municipal Government Board to read and review the assessment review board hearing record prior to the hearing date of the complaint decision under appeal.

15. Date for Providing Record to Municipal Government Board

It is proposed that the assessment review board provide the record of the assessment review board hearing within 10 "working days" "*of being notified by the Municipal Government Board that an appeal has been filed in the matter.*"

16. Personal Attendance Not Required

Section 7 of the existing regulation allows for a written submission to be filed with the clerk of the assessment review board for submission at the complaint hearing before an assessment review board for those parties that cannot personally attend.

It has been suggested that this section is ineffective and unsupportive of the principles of natural justice and fairness because written presentations cannot be effectively cross-examined by the assessment review board, complainants or respondents.

It is proposed that section 7 be deleted from the regulation.

17. Delete Instruction to Municipal Government Board about New Issues and New Evidence on Appeal

Sections 8 and 9 of the existing regulation provide for instructions to the Municipal Government Board regarding jurisdiction to hear evidence in appeals about decisions of the assessment review board that have not been previously disclosed during the process for hearing complaints before the assessment review board.

In particular, subsections 8(1) and 8(2) attempt to limit the Municipal Government Board's discretion to hear new evidence, other than in the case "*for determining a question of law or jurisdiction.*" However, subsection 9(2)(a) provides detailed instruction to the Municipal Government Board to hear only that "new" evidence which has been agreed to by the parties to the appeal and disclosed and exchanged according to specific timelines.

Finally, subsection 9(2)(b) completely modifies the instructions of subsections 8(1), 8(2) and subsection 9(2)(a) by allowing the Municipal Government Board to hear "*any evidence necessary to decide an issue before it.*"

As a result of these contradictions to allow or disallow evidence, the regulation is confusing and thereby contributes to inconsistent decisions that may or may not support the objective of natural justice and fairness of Municipal Government Board appeal hearings. These sections also contribute to inefficient use of ratepayer, tax agent, municipal and Municipal Government Board time and resources.

It is proposed that sections 8 and 9 be deleted from the regulation.

18. Keep and Modify Instruction to Municipal Government Board about New Issues and New Evidence on Appeal

Alternatively, it is proposed that sections 8 and 9(1) that contain instructions about new issues and new evidence to the Municipal Government Board be kept, but that section 9(2) be deleted.

19. Authority to Abridge or Expand Time

Subsection 10(1) provides for the assessment review board to abridge or expand the time by written order for providing an issue statement in section 3(1)(c) and for disclosing evidence as indicated in section 4. This subsection is not proposed for change.

However, subsection 10(2) provides instruction to the Municipal Government Board through a reference to subsection 9(2), which concerns the exchange of evidence between the parties and the Municipal Government Board in respect of an appeal before the actual hearing date.

It is proposed that subsection 10(2) be deleted as a consequence of the proposal to delete section 9(2).

20. Option to Bypass Assessment Review Board

Section 11 of the regulation allows for a complaint about a non-residential property assessment to bypass the assessment review board complaint process and hearing if all parties to the complaint and the assessment review board consent.

Complainants and respondents as parties to non-residential property assessment complaints report that this section is not being implemented for lack of consent by assessment review boards.

It is proposed that section 11(b)(i) be amended by removing the requirement for the assessment review board to provide consent before a complaint can proceed at "first instance" before the Municipal Government Board.

21. One-Member Assessment Review Boards

Section 12 of the regulation provides for the ability of council to appoint a one-member assessment review board to hear and make decisions about the following areas:

(a) procedural matters;
(b) complaint dismissals allowed under s.467(1)(a) of the act;
(c) a decision of the assessment review board clerk about an issue statement leading to a refusal to file a complaint issue statement;

(d) a hearing related to a non-residential property assessment complaint with an assessed value of $250,000 or less;
(e) a hearing related to a business tax with an assessed value of $50,000 or less;
(f) a hearing related to a farm land property assessment; and
(g) any matter where all parties have consented to a hearing before a one-member assessment review board.

The authority for councils to appoint one-member boards offers an efficient use of resources in those municipalities that are annually faced with large numbers of property assessment complaints.

It is proposed that this section be consequentially amended to reflect any decisions about the value level thresholds for complaints about non-residential property and business assessments.

22. One-member Municipal Government Boards

Section 13 of the regulation provides for the ability of the board's administrator to appoint one-member to hear and make decisions about the following areas:

(a) procedural matters,
(b) appeal dismissals allowed under s.499(1)(a) of the act;
(c) an assessment complaint or appeal related to a property that has an assessed value of $250,000 or less;
(d) an appeal related to a farm land property assessment;
(e) an appeal related to a business tax where the business assessment is $50,000 or less; and
(f) any matter where all parties have consented to a hearing or appeal before a one-member board.

The authority for the administrator to appoint one-member boards offers an efficient and flexible use of resources.

It is proposed that this section be consequentially amended to reflect any decisions about the value level thresholds for complaints about non-residential property and business assessments.

23. Electronic Filing for Complaints and Appeals

Section 608 under Part 16 Miscellaneous of the act indicates that:

"Any document required by this or any other enactment or bylaw to be sent by a person may be sent by any electronic means so long as it is possible to make a copy of the document from the electronic signals used by the electronic means."

An issue has been raised about the use of electronic filing for sending, acknowledging and receiving complaint, issue statement, and evidence documents.

It is proposed that the instruction about the use of electronic filing in relation to the process of making a complaint or appeal under Parts 9 through 11 of the act, be included and clarified in the regulation.

24. Document Deadline Time

An issue has been raised about the time considered as the final deadline for submitting a document required for the assessment complaint and appeal process. Some municipalities utilize 4:30 p.m. of the business day as the absolute deadline; some municipalities utilize 11:59 p.m. (midnight) of the business day as the absolute deadline.

It is proposed that the regulation be amended to provide for a clear direction about the deadline time for submitting a document required for the assessment complaint and appeal process.

Appendix A

Meeting and Workshop Questions

Meeting and Workshop Questions

June/July 2005

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1. In your view, what is working well with this regulation?

2. What is your view on the Role of the Clerk of the Assessment Review Board?

3. What is your view regarding "levels of disclosure" in relation to property types under the Assessment Complaints and Appeals Regulation (ACAR)?

4. Can you provide general comments about your experience about the administrative interaction between the assessment review board departments in terms of processing appeals under the ACAR?

5. What are your comments about the use of one-member panels as allowed by the regulation?

6. Do you have a suggestion/comments about the value level of $250,000 cut off for hearing complaints about non-residential appeals?

7. Can you provide comments reflective of your municipality's assessment branch or contractor about the "process" of appealing an assessment? In the broad experience of you and your staff, does this regulation provide for timely and efficient exchange of information relative to assessment appeals?

Appendix B

Existing Assessment Complaints and Appeals Regulation AR 238/2000

ALBERTA REGULATION ***238/2000***

Municipal Government Act

ASSESSMENT COMPLAINTS AND APPEALS REGULATION

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finitions **1(1)** In this Regulation,

(a) "Act" means the *Municipal Government Act*;

(b) "Appeal" means an appeal under section 488(1)(c) of the Act;

(c) "complaint" means a complaint made under Part 11 of the Act;

(d) "issue statement" means the document referred to in section 3(2);

(e) "statement of issues heard" means the list referred to in section 6(2)(g).

(2) A word that is defined in Parts 9 to 12 of the Act has the same meaning when used in this Regulation.

PART 1

PROCEDURE AND EVIDENCE

›plication **2(1)** Subject to subsections (2) and (3) and section 9, this Part does not apply to

(a) a complaint or appeal concerning

(i) a farm land assessment class of property,

(ii) a single family residential property in the residential assessment class of property, if the complaint or appeal

(A) relates to not more than 4 tax roll numbers of single family residential properties filed collectively by one assessed person or one agent of an assessed person, and

(B) will be heard as one hearing by an assessment review board or the Municipal Government Board,

(iii) a local improvement tax,

(iv) a special tax,

(v) a well drilling equipment tax, or

(vi) an issue that is solely procedural in nature, including, without limitation, an issue concerning jurisdiction or abridgement or enlargement of time,

and

(b) a complaint where the only issue is the assessment value

(i) in respect of a total property assessment of $250 000 or less, or

(ii) in respect of a total business assessment of $50 000 or less.

(2) Notwithstanding subsection (1), the requirements of section 3(2) apply to a complaint in respect of any non-residential property that has an assessment value of $250 000 or less, and the complainant must file the issue statement with the clerk of the assessment review board and the assessor of the municipality at least 7 days before the hearing of the complaint.

(3) Notwithstanding subsection (1), the complainant and respondent must, within a reasonable time before the hearing date of the complaint, disclose to each other and the assessment review board the nature of the evidence that the person intends to present, in sufficient detail to allow the other person to respond to the evidence at the hearing.

›cuments to filed by mplainant

3 (1) If a complaint is to be heard by an assessment review board, the complainant must

(a) file the complaint in accordance with the Act,

(b) pay the appropriate complaint fee at the time the complaint is filed, if, in accordance with section 481 of the Act, a fee is required by the council, and

(c) file an issue statement with the clerk of the assessment review board and with the assessor of the municipality at least 21 days before the hearing date of the complaint.

(2) An issue statement must be in the form set by the municipality and must

(a) be in writing,

(b) set out in detail the grounds of complaint, the particular facts supporting each ground of complaint and the change to the assessment roll or tax roll that is requested by the complainant,

(c) include a statement that the complainant and the respondent have discussed the complaint, specifying the date and outcome of that discussion, including the details of any facts or issues agreed to by the parties,

(d) include a statement, if the complainant and the respondent have not discussed the complaint, specifying why no discussion was held, and

(e) estimate the amount of time the complainant needs to present evidence in support of the complaint to the assessment review board.

(3) If the clerk of the assessment review board sends a notice of hearing to a complainant on a date that is less than 45 days before the hearing date, the complainant is not required to comply with subsection (1)(c).

(4) Subject to subsection (3), if a complainant does not comply with subsection (1), the complaint is invalid and the assessment review board must not hear the matter and the clerk of the assessment review board must so notify the complainant.

(5) If a complainant who files an issue statement does not comply with subsection (2), the clerk of the assessment review board may refuse to file the issue statement.

(6) A complainant may appeal a refusal under subsection (5) to an assessment review board within 14 days of being notified of the refusal.

sclosure of idence

4 (1) The complainant must at least 21 days before the hearing date of the complaint disclose to the respondent and the assessment review board the documentary evidence, a summary of the testimonial evidence and any written argument that the complainant intends to present at the hearing.

(2) The respondent must at least 7 days before the hearing date of the complaint disclose to the complainant and the assessment review board the documentary evidence, a summary of the testimonial evidence and any written argument that the respondent intends to present at the hearing.

(3) The complainant must at least 3 days before the hearing date of the complaint disclose to the respondent and the assessment review board the documentary evidence, a summary of the testimonial evidence and any written argument that the complainant intends to present at the hearing in rebuttal to the disclosure made under subsection (2).

(4) If the clerk of the assessment review board sends a notice of hearing to a complainant on a date that is less than 45 days before the hearing date, the complainant and the respondent are not required to comply with subsections (1) to (3) but must instead, within a reasonable time before the hearing date, disclose to each other and the assessment review board the nature of the evidence that the person intends to present, in sufficient detail to allow the other person to respond to the evidence at the hearing.

ilure to close

5 The assessment review board shall not hear any evidence that has not been disclosed in accordance with section 4.

cord

6 (1) An assessment review board must make and keep a record of each hearing in accordance with subsection (2).

(2) A record of a hearing must include

(a) the complaint,

(b) the issue statement,

(c) all documentary evidence filed in the matter,

(d) a list of witnesses who give evidence at the hearing,

(e) a summary of all testimonial evidence given at the hearing,

(f) all written arguments presented at the hearing,

(g) a written list that is prepared at the end of the hearing that identifies those issues from the issue statement about which evidence was given or argument was made at the hearing, and

(h) any written reasons for the decisions of the assessment review board.

(3) The assessment review board must provide to the Municipal Government Board the record of a hearing within 14 days of being notified by the Municipal Government Board that an appeal has been filed in the matter.

(4) If the evidence given at a hearing is recorded by means of a sound-recording machine, a party to the hearing may request a copy of the sound-recording or the transcript of the sound-recording, if the party pays for the cost of preparing the copy or transcript.

rsonal endance t required

7 (1) Parties to a hearing before an assessment review board may attend the hearing in person or may, instead of attending in person, file a written presentation with the clerk of the assessment review board.

(2) A party who files a written presentation under subsection (1) must, subject to the disclosure of information required under section 4, provide a copy of it before the hearing to the other parties.

·w issues on peal

8 (1) Unless all parties to an appeal consent, the Municipal Government Board shall not, in an appeal, hear and decide an issue that is not disclosed in that matter's statement of issues heard.

(2) Notwithstanding subsection (1), the Municipal Government Board may on its own initiative hear and decide an issue that is not disclosed in that matter's statement of issues heard if, in the opinion of the Municipal Government Board, it is necessary for determining a question of law or a question of jurisdiction.

(3) The Municipal Government Board must allow a reasonable amount of time for the parties to prepare to address any new issues to be heard in an appeal under this section.

·w evidence appeal

9 (1) Unless all parties to an appeal consent, the Municipal Government Board shall not, in an appeal, hear any evidence that was not heard by the assessment review board.

(2) Notwithstanding subsection (1), the Municipal Government Board

(a) must, in an appeal, hear evidence that was not heard by the assessment review board if

(i) the evidence is disclosed by the party raising it to the other party and the Municipal Government Board at least 30 days before the appeal is heard,

(ii) any related evidence is disclosed by the other party to the party that made the disclosure under subclause (i) and to the Municipal Government Board at least 14 days before the appeal is heard, and

(iii) any evidence in rebuttal to the disclosure made under subclause (ii) is disclosed by the party that made the disclosure under subclause (i) to the other party and to the Municipal Government Board at least 7 days before the appeal is heard,

and

(b) may on appeal hear any evidence necessary to decide an issue before it.

ridgement expansion time

10(1) An assessment review board may at any time, by written order, abridge or expand the time specified in sections 3(1)(c) and 4(1), (2) and (3) for the doing of anything described in those sections in respect of a complaint.

(2) The Municipal Government Board may, by written order, abridge or expand the time specified in section 9(2) for the doing of anything described by that section in respect of an appeal.

PART 2

HEARING BY CONSENT BY MUNICIPAL GOVERNMENT BOARD

3B hearing consent

11 In any matter to which Part 1 applies, the Municipal Government Board, instead of an assessment review board, may hear and decide at first instance any complaint or supplementary complaint if

(a) the parties to the complaint or supplementary complaint consent to a hearing by the Municipal Government Board, and

(b) the assessment review board, on application by the parties to the complaint or supplementary complaint,

(i) is satisfied that the complaint or supplementary complaint should be heard by the Municipal Government Board due to time considerations, the complexity of the issues or other compelling reasons, and

(ii) directs that the complaint or supplementary complaint be heard by the Municipal Government Board.

PART 3

ONE-MEMBER ASSESSMENT REVIEW BOARD AND MUNICIPAL GOVERNMENT BOARD PANEL

ıe-member :B

12(1) Pursuant to section 454(2.1) of the Act, a council may appoint an assessment review board consisting of only one member.

(2) A one member assessment review board may hear a complaint on and decide one or more of the following matters:

(a) a procedural matter, including, without limitation, the scheduling of a hearing, the granting or refusal of an adjournment and an issue involving disclosure of evidence;

(b) a decision under section 467(1)(a) of the Act;

(c) a decision concerning the filing of an issue statement, where the clerk of the assessment review board has refused filing under Part 1;

(d) a hearing related to a class or subclass of a property that has an assessed value of $250 000 or less;

(e) a hearing related to a business tax where the business assessment is $50 000 or less;

(f) a hearing related to a farm land property assessment;

(g) any matter where all parties have consented to a hearing before a one-member assessment review board.

ıe-member 3B panel

13 Pursuant to section 527.1(1) of the Act, one member of the Municipal Government Board may sit as a panel of the Board to hear an appeal on and decide one or more of the following matters:

(a) a procedural matter, including, without limitation, the scheduling of a hearing or an appeal, an application to abridge or expand time, the granting or refusal of an adjournment, the awarding of costs and an issue involving disclosure of evidence;

(b) a decision under section 499(1)(a) of the Act;

(c) an assessment complaint or appeal related to a property that has an assessed value of $250 000 or less;

(d) an appeal related to a farm land property assessment;

(e) an appeal related to a business tax where the business assessment is $50 000 or less;

(f) any matter where all parties have consented to a hearing or appeal before a one-member panel.

PART 4

TRANSITIONAL PROVISIONS, REPEALS, EXPIRY AND COMING INTO FORCE

ansitional atters

14(1) Despite the repeal of the *Assessment Complaints and Appeals Regulation* (AR 55/99) and the *One-member Assessment Review Board and Municipal Government Board Panel Regulation* (AR 56/99), those Regulations continue to apply to all appeals and complaints filed in the year 2000.

(2) This Regulation applies to appeals and complaints filed on or after January 1, 2001.

peals

15 The following regulations are repealed:

(a) *Assessment Complaints and Appeals Regulation* (AR 55/99);

(b) *One-member Assessment Review Board and Municipal Government Board Panel Regulation* (AR 56/99).

piry

16 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on January 31, 2006.

ming into ce

17 This Regulation comes into force on January 1, 2001.

PROPOSED ASSESSMENT COMPLAINTS AND APPEALS REGULATION

Stakeholder Questionnaire

- To complete this questionnaire electronically, please click on the shaded fields (only visible on screen) and type your response. The field will expand as you type. Save the file and return as an e-mail attachment.
- As an alternative, the questionnaire can be printed out and completed manually.

Respondent: _____

Organization: _____

Position: _____

Street Address: _____

City/Town: _____

Postal Code: _____

Is this response the official response from your organization? ☐ Yes ☐ No

Please indicate whether you support the following proposals:

1. Definitions

Do you agree with the proposed definition of "working days" to mean those consecutive days from Monday through to Friday inclusive during the calendar year which are not identified as a statutory holidays and not including any Saturdays or Sundays?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

2. Role of the Assessment Review Board Clerk

Do you think that the role of the assessment review board clerk should be restricted to that of an administrator without any decision-making authority to refuse to file complaints for non-compliance with complaint fee and document requirements?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

3. Issue Statement Requirement for All Property and Business Assessment Complaints

Do you agree with the proposal that the regulation be amended to include the requirement to provide an "issue statement" for all complaints and appeals concerning the property assessment classes described in section 297 of the act and businesses subject to a business tax bylaw?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

4. Submission of an Issue Statement Linked to Last Day for Filing a Complaint

Do you agree with the proposal to align the date for submitting an issue statement with the last day for filing an assessment complaint as identified on the municipal assessment and/or tax notice?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

5. Issue Statement Submission Date for Property and Business Assessment Complaints

Please indicate your preference with a checkmark from the selections below for the date the submission of an issue statement must occur after the last date for complaint shown on the municipal assessment and/or tax notice?

20 "working days" ☐ 15 "working days" ☐ 10 "working days" ☐

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

6. Municipal Bylaw Option to Determine Value Level Applicability of Issue Statement

Do you agree with the proposal to amend the regulation to allow for the option of a municipal bylaw to exempt the requirement for "issue statements" for:

- complaints about property assessed and classed in the majority as non-residential (class 2) and machinery and equipment (class 4) and that have an assessed value of $500,000 or less, and;

- complaints about business assessments for businesses that are subject to a business tax bylaw, which have an assessed value of "$100,000" or less.

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

7. No Requirement for Issue Statement for Complaints about Business Assessment

Do you agree with the proposal to delete subsection 2(1)(b)(ii) from the regulation, thereby eliminating the need for the submission of an issue statement and application of disclosure and exchange rules for complaints where the business assessment is greater than $50,000?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

8. Date for Submission of Issue Statements Under Municipal Bylaw Option

Please indicate your preference for amending the regulation from the following two choices:

A. For those municipalities that choose to pass an issue statement bylaw, the date for submitting the issue statements for complaints about non-residential and machinery and equipment property be within a specified number of "working days" before the hearing date of the complaint.

B. For those municipalities that choose to pass an issue statement bylaw, the date for submitting the issue statements for complaints about non-residential and machinery and equipment property be within a specified number of "working days" after the last date for complaint shown on the assessment and/or tax notice.

Preference:
(Please click only one box)

☐ A ☐ B

Comments: Type your comments here, (field will expand)

These issue statements would be filed with the clerk of the assessment review board and the assessor of the municipality.

Please indicate your preference with a checkmark from the selections below for this specified date of the submission of an issue statement before the hearing date of the complaint.

20 "working days" ☐ 15 "working days" ☐ 10 "working days" ☐

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

9. Documents to be Filed by Complainant

Do you agree with the proposal to delete the existing subsections 3(2)(c),(d) and (e) from the regulation.

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

10. Dates for Providing Evidence Disclosure

Do you agree with the proposal to adjust the timelines concerning the disclosure of evidence in section 4 in the following manner?

- to 20 "working days" in subsection 4(1),
- to 10 "working days" in subsection 4(2), and;
- to 5 "working days" in subsection 4(3).

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

11. Municipal Bylaw Option to Adjust Threshold Value Levels

Do you agree with the proposal to allow a municipality to pass a bylaw to adjust the assessed value level threshold?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

12. Penalty for Failure to Disclose Evidence

Do you think that the imposition of a penalty clause in the regulation such as a fine or automatic dismissal of the complaint will improve the complaints process?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

13. Delete Record of Assessment Review Board Hearing

Do you agree with the proposal to delete section 6 from the regulation?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

14. Municipal Government Board to Review Record Prior to Hearing

Do you agree with the alternative proposal to retain section 6 but include an amendment to require the Municipal Government Board to read and review the hearing record from the assessment review board before its hearing?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

15. Date for Providing Record to Municipal Government Board

Do you agree with the proposal to require the assessment review board to provide the record of the assessment review board complaint hearing within 10 "working days" to the Municipal Government Board.

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

16. Personal Attendance Not required

Do you agree with the proposal to delete the ability for parties who cannot personally attend an assessment review board hearing to file a written submission with the clerk of the assessment review board from the regulation?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

17. Delete Instruction to Municipal Government Board about New Issues and New Evidence On Appeal

Do you agree with the proposal to delete sections 8 and 9 concerning new issues and new evidence on appeal before the Municipal Government Board?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

18. Keep and Modify Instruction to Municipal Government Board about New Issues and New Evidence on Appeal

Do you agree with the alternate proposal to keep sections 8 and 9(1), which would allow the Municipal Government Board to hear new issues and new evidence on appeal if parties to an appeal consent, but to delete subsection 9(2)?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

19. Authority to Abridge or Expand Time

Do you agree with the proposal to delete subsection 10(2), which concerns the application of the rules about exchange of evidence in appeals before a Municipal Government Board as a consequence of the proposal to delete subsection 9(2), which concerns those disclosure rules?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

20. Option to Bypass Assessment Review Board

Do you agree with the proposal that section 11(1)(b) be amended by removing the requirement for the assessment review board to provide its consent before a complaint can proceed at "first instance" before the Municipal Government Board?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

21. One-Member Assessment Review Boards

Do you agree with the proposal that section 12 be amended to reflect any decisions made to change the assessment value level threshold for complaints about non-residential property and business assessments?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

22. One Member Municipal Government Boards

Do you agree with the proposal that section 13 be amended to reflect any decisions made to change the assessment value level threshold for complaints and appeals about non-residential property and business assessments?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

23. Filing Mediums and Deadlines for Complaints and Appeals

Do you agree with the proposal to include and clarify instructions in the regulation about the use of electronic mediums in relation to the process of making a complaint or appeal under Parts 9 through 11 of the act?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)

24. Document Deadline Time

Do you agree with the proposal that the regulation should be amended to provide for a clear direction about the deadline time for submitting a document required for the assessment complaint and appeal process?

(Please click only one box)

☐ Support
☐ Do not Support
☐ Conditionally Support (if so, what are the conditions?)

Type your conditions here, (field will expand)

Please give your reasons for support, non-support or conditional support below.
Type your conditions here, (field will expand)